REMARKS

Claims 1, 3, 4, 6, 10-53, 55-76 and 78-87 are pending and stand rejected. In response, claims 1, 4, 6, 12-14, 21, 23-26, 47, 52, 55, 59-61, and 78 are amended and claims 10-11, 27-29, and 82-87 are cancelled. Claims 1, 3-4, 6, 12-26, 30-53, 55-76, and 78-81 remain pending upon entry of this amendment.

These changes are believed not to introduce new matter, and their entry is respectfully requested. In making these amendments, Applicants do not concede that the subject matter of such claims was in fact disclosed or taught by the cited prior art. Rather, Applicants reserve the right to pursue such protection at a later point in time and merely seeks to pursue protection for the subject matter presented in this submission.

In view of the Amendments herein and the Remarks that follow, Applicants respectfully request that Examiner reconsider all outstanding objections and rejections, and withdraw them.

35 U.S.C. § 103 Rejections

Claims 1, 3, 4, 6, 10-16, 18, 21-38, 44-53, 55-76, and 78-87 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Geiger et al., US 6,073,142, in view of Walker, US 6,278,709. Further, claims 17, 19, 20, and 39-43 stand rejected under § 103(a) as being unpatentable over Geiger and Walker and further in view of Aronson et al., US 6,654,787. Applicants respectfully traverse these rejections. Examiner relies on Crowther, US 6,771,765, for the rejection of claim 6, although this reference is not listed in the formal rejection.

Applicants have amended claims 1, 6, 12-14, 21, 52, 55, and 78 to recite features related to sampling mail messages and/or network communications. Claims 16 and 30 already recited features related to sampling and are not amended herein. Thus, claims 1, 6, 12, 14, 16, 21, 30, 52, 55, and 78 now recite features related to sampling.

Independent claim 1, for example, recites:

(a) **sampling** electronic mail messages received from the sender to determine a level of electronic mail messages having a certain characteristic;

(b) determining a priority value for the sender as a function of the level;

(c) identifying a processing rule for the priority value;

(d) receiving a new electronic mail message from the sender; and

(e) delivering the new electronic mail message to the receiver in accordance with the processing rule.

Similarly, claim 55 recites:

the network appliance being further configured to allocate network connections to the incoming network communications in a prioritized manner determined according to an incoming network communication priority value corresponding to the communication's sender, wherein the priority value is determined based on having previously **sampled** and classified an initial subset of network communications according to sender in order to determine, for every sender, a level of network communications having a certain characteristic.

Thus, the claimed invention samples electronic mail messages and other network communications from a sender, determines a level of a certain characteristic present in those samples, determines a priority value based on this level, and applies this priority value when making subsequent decisions such as identifying a processing rule.

Examiner rejected the "sampling" elements of claim 16 primarily based upon Geiger. Applicants respectfully submit that Geiger does not teach or suggest the claimed sampling-related features. Geiger discloses a system and method for automatic deferral and review of

email messages by applying business rules. Geiger's system does not sample messages in order to ultimately select business rules to apply to subsequent emails from the same source.

The portions of Geiger specifically identified by Examiner, col. 19, lines 52-67 and col. 20, lines 1-20, merely disclose an evaluator that applies business rules to messages to determine which rules match, and then provides the actions associated with the matching rules to a distribution engine. The distribution engine selects and executes the action with the highest priority. These actions are performed on all messages of the network, and Geiger neither teaches nor suggests sampling messages/communications as claimed. An additional portion cited by Examiner, col. 23 lines 5-36, discloses a gatekeeper user interface that allows a gatekeeper to view and manually act on messages that are "gated" in response to application of the actions corresponding to the aforementioned business rules. Thus, neither of these citations to Geiger involves sampling messages/communications to determine a level having a certain characteristic, or the other claim elements that utilize the results of the sampling.

Similarly, Walker, Aronson, and Crowther fail to remedy the shortcomings of Geiger. Walker discloses a routing switch technique for routing messages from input to output ports based on a value in the message header. Aronson discloses a server for filtering email messages on behalf of a client. Crowther discloses queuing multiple media requests based on their predefined priority classifications. However, each fails to disclose "*sampling* network communications" and applying a determined priority value to subsequent communications received from the corresponding sender. Thus, a person of skill in the art considering the

teachings of the references, even when combined, would not find the claimed invention obvious because the references do not disclose or suggest sampling as claimed.

Applicants have additionally amended claim 47, which recites:

> *sending*, responsive to a certain communications host accounting for a number of inbound connections exceeding a certain percentage of available connections, *a request to the certain communications host to reduce its network communications*;
> *monitoring a volume of network communications* from the certain communications host; and
> *altering, responsive to the certain communications host failing to reduce a volume of its network communications, a connection build process* for the certain communications host to control a flow of the certain communications host's network communications

Neither Geiger, Walker, Aronson, or Crowther discloses sending a request to a communications host to reduce network communications, monitoring the volume of network communications, and altering a connection build process in response. Rather than disclosing such flow control, they disclose application of business rules to messages, packet switching, filtering email, and queuing messages based on priority, respectively.

Claim 15 recites "delaying a network communication having a source address that does not correspond to any e-mail domain on the list until after transmission of another network communication having a respective source address that does correspond to an e-mail domain on the list." Geiger, by contrast, does not teach, disclose, or suggest delaying based on e-mail domain; rather, it merely discusses the general technique of evaluating an arbitrary rule using the rule operand and attributes. Similarly, Walker merely discloses routing packets based on header priorities, but fails to teach, disclose, or suggest anything relating to delaying a network communication based on e-mail domain. Neither Aronson nor Crowther remedies these deficiencies.

Claim 62 recites "determining a prescribed delay for the identified priority level; and delaying delivery of the particular network communication to the intended recipient according to the prescribed delay." Geiger, at most, discloses delaying a set of messages, but such delay is based on actions manually taken by the gatekeeper, not on an identified priority level. Walker discloses routing packets based on header priorities, but fails to teach, disclose, or suggest anything relating to delaying delivery according to delay based on priority levels. Crowther fails to teach, disclose, or suggest determining a prescribed delay for the identified priority level; its delays do not last for a prescribed period, but merely until higher priority communications are complete. Nor does Aronson remedy these deficiencies.

As for the dependent claims, claims 3-4, 22-26, 48-51, 53, 56-61, 63-77, and 79-81 depend from claims 1, 21, 47, 52, 55, 62, and 78, respectively, and recite additional features and limitations. Thus, all arguments advanced above with respect to claims 1, 21, 47, 52, 55, 62, and 78 are hereby incorporated so as to apply to claims 3-4, 22-26, 48-51, 53, 56-61, 63-77, and 79-81.

Conclusion

In sum, Applicants respectfully submit that claims 1, 3, 4, 6, 12-26, 30-53, 55-76, and 78-81, as presented herein, are patentable over the cited references (including references cited, but not applied). Therefore, Applicants request reconsideration of the basis for the rejections to these claims and request allowance of them.

In addition, Applicants respectfully invite Examiner to contact Applicants' representative at the number provided below if Examiner believes it will help expedite furtherance of this application.

Respectfully Submitted,
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